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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,927	03/12/2004	Matthew Luedtke	HYF 40060	6886

7590

08/04/2005

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EXAMINER

BASINGER, SHERMAN D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 08/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,927

Applicant(s)

LUEDTKE ET AL.

Examiner

Sherman D. Basinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22, 25 and 27-40 is/are rejected.
- 7) ☒ Claim(s) 23, 24 and 26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-11, 14, 15, 20, 21, 22, 25, 27, 28 and 35-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Keegan.

Keegan discloses an apparatus for stacking cars 1 carrying the sail of a sail boat comprising a track along which said cars ride, the track comprising a first vertical upper section (either one of rails G on foretopmast B') having one track rail and a second lower section (both rails G on foremast B) including at least a port and a starboard tracks rails; guide structure means K thereon for guiding cars to opposite tracks rails of the lower section, effectively reducing the vertical height of the stacked cars when the sail is stowed.

Keegan further discloses a method for stacking sail cars to effectively reduce a vertical height of the sail cars when stacked upon stowage of the sail, the method comprising the steps of:

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creating a track (G and G) for engaging the sail cars, the track having an upper vertical centerline section (the centerline being between the sections of the tracks G of the foretopmast) and a lower section including at least a port and starboard storage tracks (tracks G on the foremast B); creating guide means K for guiding cars to opposite storage tracks of the lower section; and stowing the sail by lowering same along the track until the cars are received within the port and starboard storage tracks, serving as stowage tracks.

Keegan also discloses an apparatus for compacting sail cars comprising a mast track G along which cars 1 of the sail ride, the track comprising a vertical upper section on foretopmast B' and a lower section including at least a port G and a starboard G storage track on the foremast B; the cars and tracks having switch means K for alternately switching cars to opposite tracks of the lower section G on foremast B, effectively reducing the vertical height of the stacked cars when the sail is stowed, the track also incorporating structure (the guide rail of switch bar K when centered between the lower ends of rails G) for maintaining at least the bottom cars of the sail along a centerline of the mast rather than to either side thereof.

Keegan also discloses an apparatus for fully raising and stowing a sail on the mast and along the boom of a sail boat, said sail being carried by a plurality of sail cars 1 and batten cars 1 up and down the mast, comprising a track G on the mast along which the plurality of sail cars and batten cars 1 can ride to raise or stow the sail, the track comprising a vertical upper section on foretopmast B' along which the sail cars and batten cars and sail can be raised, a lower section on foremast B adjacent the boom C along which the cars and batten cars 1 and sail D can be stowed, the lower section including at least a port and starboard track G and G on to which the sail cars and batten cars can be moved to stow the sail, guide means K for said sail cars or batten cars for guiding adjacent sail or batten cars 1 to said at least port and starboard tracks of the lower section to stow the sail, and the cars and batten cars 1 are stacked on the lower sections at least port and starboard tracks, effectively reducing the vertical

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height of the stacked sail cars and batten cars to at least half height when the sail is stowed.

The sail switch means of claims 4 and 6 are the section of rails G curving between the foretopmast B' and the foremast B.

With regard to claim 7, the switch means of claim 4 pivots due to pivoting of the sail boat or pivoting of the mast when it sways.

The switch means section of tracks G of Keegan are considered to provide a "frog" track section.

Cars 1 of Keegan carry a sail.

At least two of cars 1 of Keegan are mounted together by the sail or are mounted together on guide means K.

With regard to claim 20, cars 1 of Keegan ride on the lower section of rails G and between them when being switched from one rail G to the other with switch bar K.

Claim 21 defines an intended use of the apparatus. So long as Keegan discloses the claimed structure and can be used with a Marconi rig, Keegan anticipates claim 21.

With regard to claim 25, the pivot can be considered to be at the top of the mast.

Claim 27 is met when considering one rail G with the upper section being the upper track rail and the lower section being the lower track rail. The lower section of the other rail G of Keegan would be offset as claimed.

The cam means of claims 28 and 35 is a part of the switch bar K.

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For claim 35 the bar of switch K is the movable section. This section pivots at the bottom and its top slides over the mast between the rails G.

Claim 39 defines an intended use. If Keegan can perform this intended use, Keegan anticipates this claim. The rails G and switch bar K of Keegan can be used to store a sail.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 17-19 and 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keegan.

Keegan does not disclose that the lower section has at least three or at least four track rails.

However, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide at least 3 or at least four tracks G to the fore mast and fore top mast of Keegan to provide a number of locations of the sail along this mast for more effective sailing.

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Keegan also does not disclose another track rail located between the at least two track rails of said lower sections, and one or more cars adjacent said boom are located on said another track rail. In providing at least three track rails, the middle one of these tracks would be the "another track rail".

Keegan does not disclose that his apparatus is for a sail of at least 60 feet in height, or at least 75 feet in height, or at least 250 feet in height. However, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to build the ship of Keegan such that his apparatus is for sails of at least 60, or 75 or 250 feet in height. Motivation to do so is to build a ship of a particular size and provide a sail of sufficient height to propel it.

Keegan discloses that the lower section has at least two storage track rails G, but does not disclose that the height of the stored stack sail on said at least two storage track rails is about one half of that were the lower section not used. Keegan also does not disclose that the lower section has at least three storage track rails and the height of the stored stacked sail on said at least three storage track rails is about one third of that were the lower section not used, nor that the lower section has at least four storage track rails and the height of the stored stacked sail on said at least four storage track rails is about one quarter of that were the lower section not used.

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However, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to make the height of the stored stack sail on the at least two storage track rails about one half of that were the lower section not used, or to provide three storage track rails and the height of the stored stacked sail on said at least three storage track rails is about one third of that were the lower section not used, or to provide the lower section with at least four storage track rails and the height of the stored stacked sail on said at least four storage track rails is about one quarter of that were the lower section not used.

Motivation to do so is to provide more rails G so that the sail can be located at more positions around the mast for more effective sailing and to make the rails of sufficient height so that the sail can be effectively reduced in height so that it can be easily transferred to each rail by the pivot K.

5. Claims 12, 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keegan in view of Foster, newly cited.

Keegan does not disclose that some of the sail cars carry battens for the sail and at least one of the cars carries a head board for the sail. Foster discloses cars 102 which carry battens 62 and head boards 70 for the sail. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains to provide head boards and battens similar to those of Foster to the cars 1 of Keegan such that some of the cars carry both battens and head boards for the sail. Motivation to do so is to mount battens on the fore top sail of Keegan to help shape it during sailing. More effective thrust from the sail can be realized.

Allowable Subject Matter

6. Claims 23, 24 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Objections

7. Claim 24 is objected to because of the following informalities: in claim 24 "said pin" has no clear antecedent. It appears that claim 24 should depend from claim 23. Appropriate correction is required.

Response to Arguments

8. Applicant's arguments filed July 13, 2005 have been fully considered but they are not persuasive.

9. Applicant argues: The structure in U.S. Patent No. 701,571 is considerably different from the present invention. In the 571 patent the purpose is to set a top sail from one side of a gaff and spring and jack stays between two masts to the other side thereof. The present invention is for example a Marconi rig, with a mast, without a gaff and spring and jack stays, and more importantly, the purpose is to reduce the stored height of the sail on the mast. The structure of the 571 patent is different from that of the present invention due to the totally different purposes. In the 571 patent, there are two upper tracks, one on each side of the gaff to fly the top sail thereon. In the present invention while there are two lower tracks they are not for flying the sail, but for storing the sail. In contrast the 571 patent has but one pivoting lower track. Whereas the 571

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patent has two upper tracks to fly the sail, one on each side of the gaff, spring and jack stays, the present invention has but one upper track for flying the sail on its mast. In short the two inventions are quite different. While both have some sort of shifting switch, the 571 has a single pivoting lower track which switches between two upper tracks, while in the present invention the switching is between one or the other of the lower storage tracks, and the single upper track for flying the sail.

10. In rebuttal, it is recognized that the structure described in applicant's specification is different from the structure describe in the Keegan specification, but the claims rejected as anticipated by Keegan do not define structure different from that disclosed by Keegan. With regard to use of applicant's lower tracks for stowage of the sail, this is an intended use. So long as Keegan has the claimed structure and can perform the intended use, then Keegan anticipates the claims. A sail can be stowed on the lower tracks G on foremast B if so desired.

11. Applicant argues: Even Claim 1 as filed clearly distinguishes from the 571 reference. That claim calls for "An apparatus for stacking sail cars...." That is NOT the purpose of the 571 patent. The 571 patent has two upper tracks one on each side of the spring and jumper stays and gaff, it does not have the single vertical upper section" of Claim 1....

12. In rebuttal to this argument, "for stacking sail cars" is an intended use of the apparatus. So long as the apparatus of Keegan has the claimed structure and can perform the intended use, then claim 1 is not patentable over Keegan. Cars 1 of Keegan can be stacked on the tracks G, so tracks G of Keegan can perform the

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intended use. Further Keegan can be considered to have two "single tracks G" on the fore top mast B'.

13. Applicant argues: The 571 patent does NOT meet the limitation of "a lower section including at least a port and starboard tracks(sic). Nor does it have the cars each having guide structure (now in amended Claim 1, "guide means") thereon for

guiding cars to opposite tracks of the lower section...."

14. In rebuttal, fore mast B has port and starboard tracks G. Further, claim 1 does not define the guide means on the cars. Claim 1 only calls for "guide structure means thereon for guiding cars to opposite tracks rails". This guide structure means is K of Keegan. The way claim 1 is written, guide structure means thereon does not define the guide structure on the cars.

15. Applicant argues: Nor does the 571 "effectively reducing the vertical height of the stacked cars when the sail is stowed."

16. In rebuttal when the sail cars 1 are lowered to the lower end of tracks G so that they can be loaded on the rail of K, the vertical height of the cars are reduced.

17. Applicant argues: In addition new Claims 4-39, all dependent directly or indirectly from amended Claim 1 have been added, and call for additional details of the present invention. These claims too are clearly distinguishable from the cited reference. Likewise, Claims 2 (amended) and 3 also distinguish from the cited reference. An additional detailed independent Claim 40 has also been added.

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18. This argument is noted. Claims 23, 24 and 26 are indicated as containing allowable subject matter.

Conclusion

19. Applicant's amendment by the addition of new claims 4-40 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sherman D. Basinger
Primary Examiner
Art Unit 3617

Monday, August 01, 2005



*Approved
9/7/05
7/21/05*

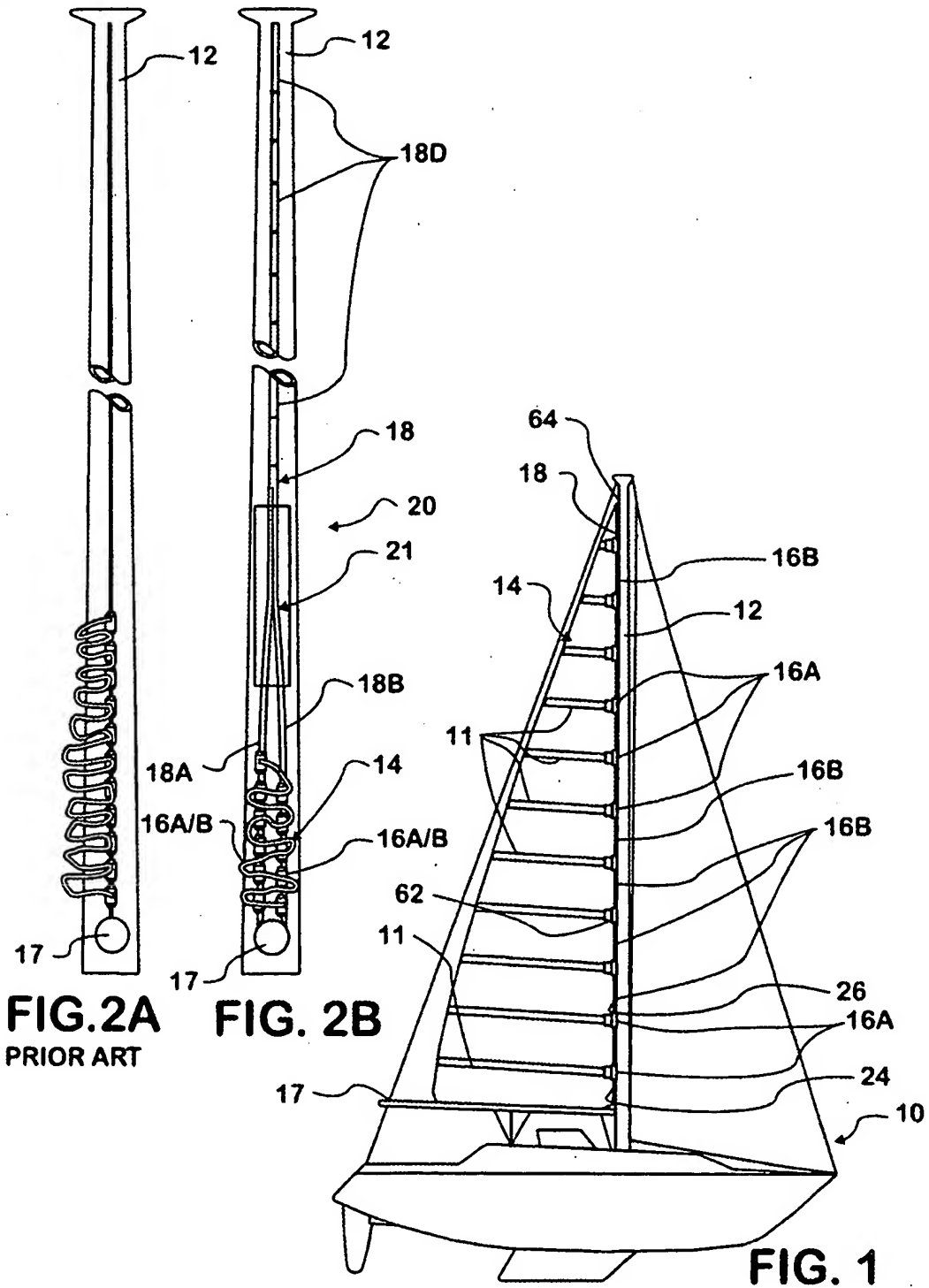


FIG. 3

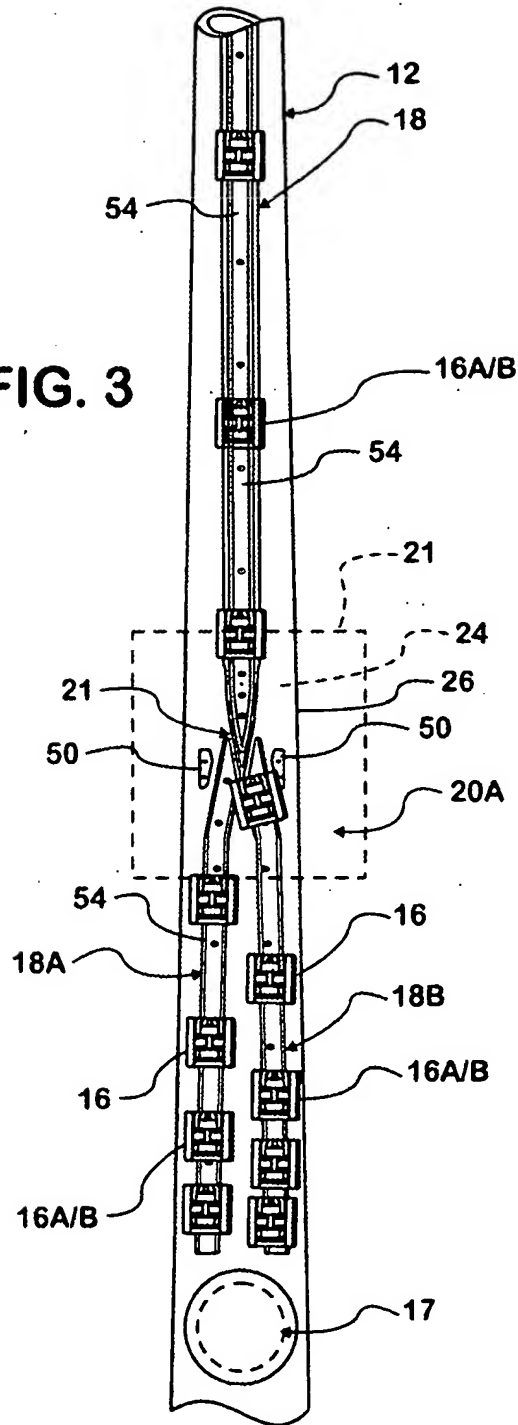
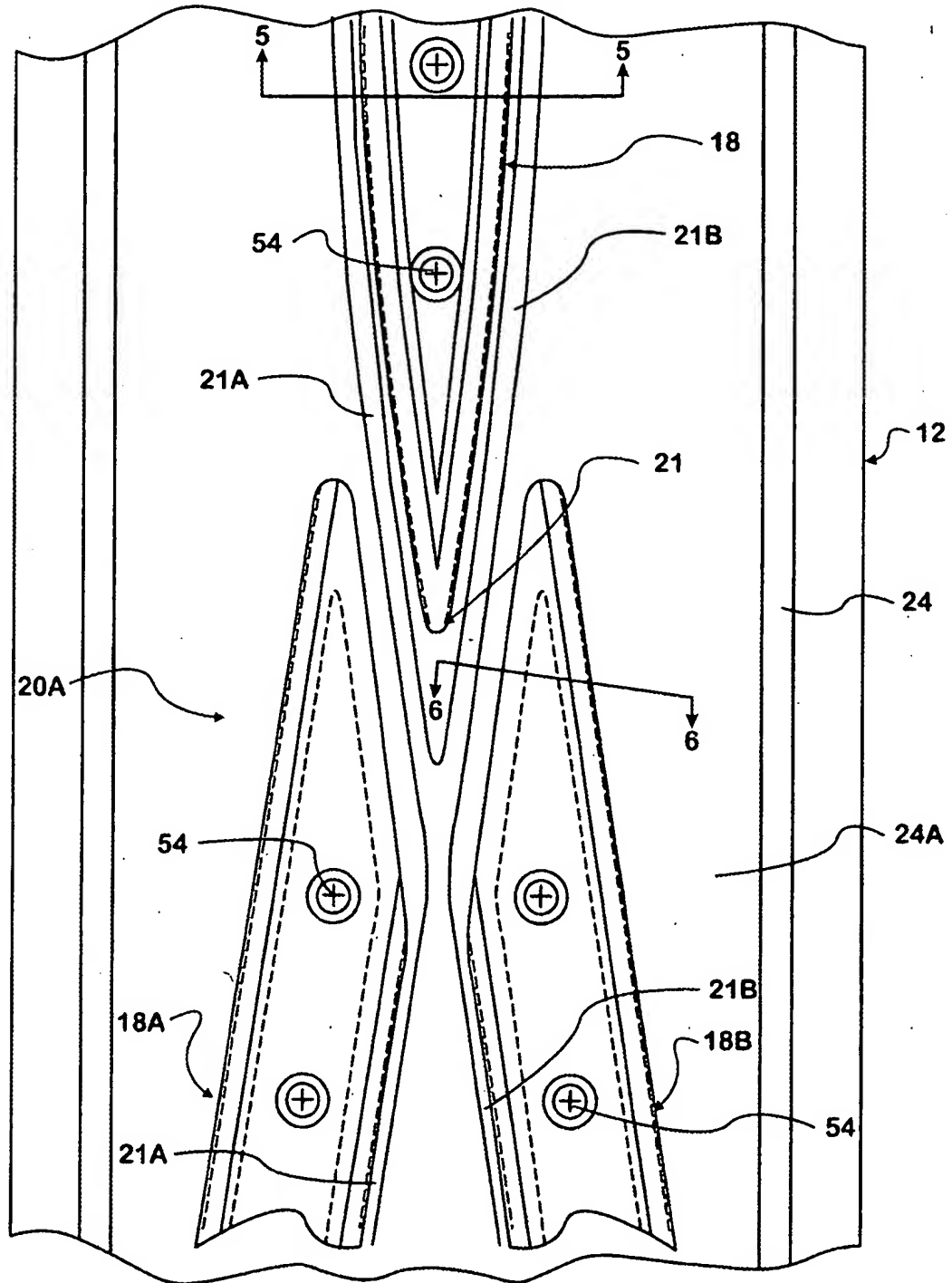


FIG. 4



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FIG. 8

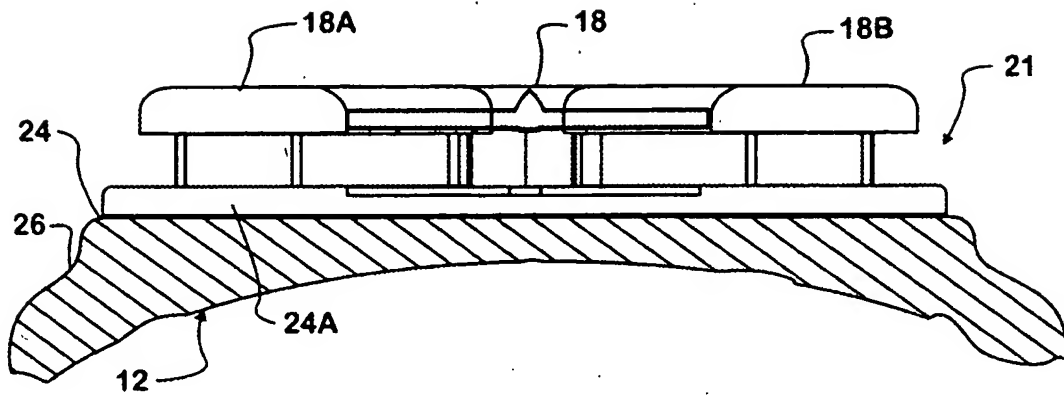


FIG. 6

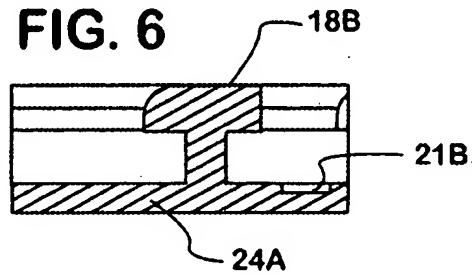


FIG. 5

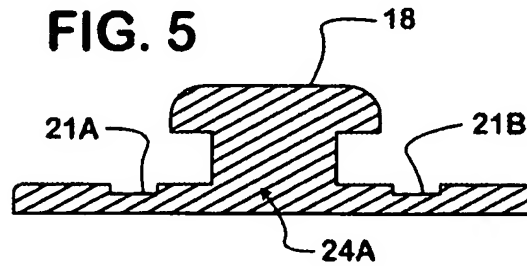
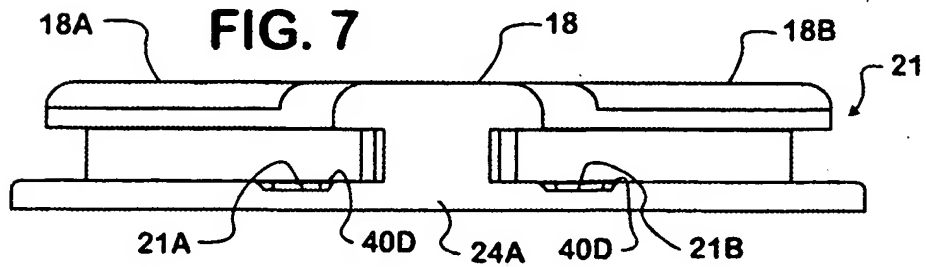
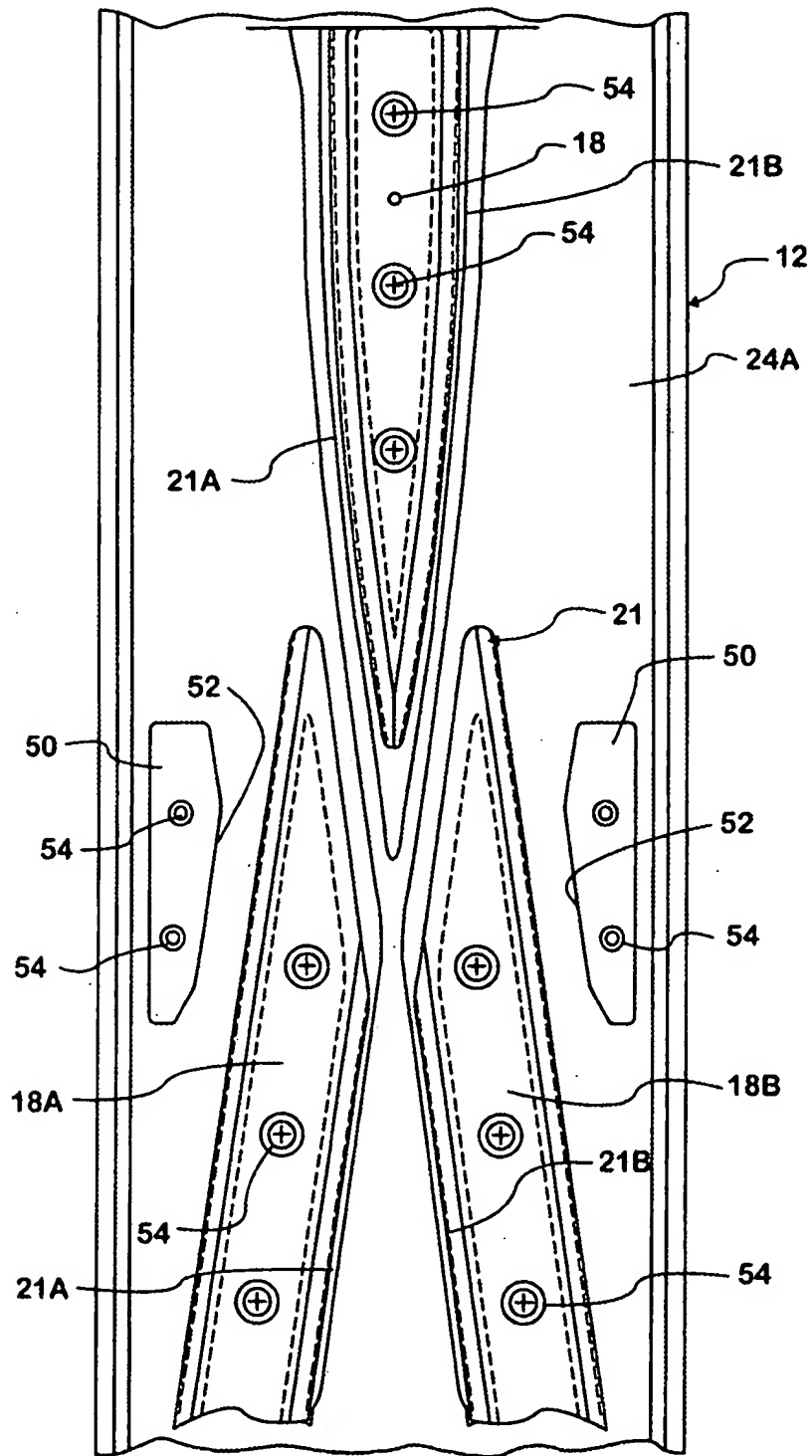


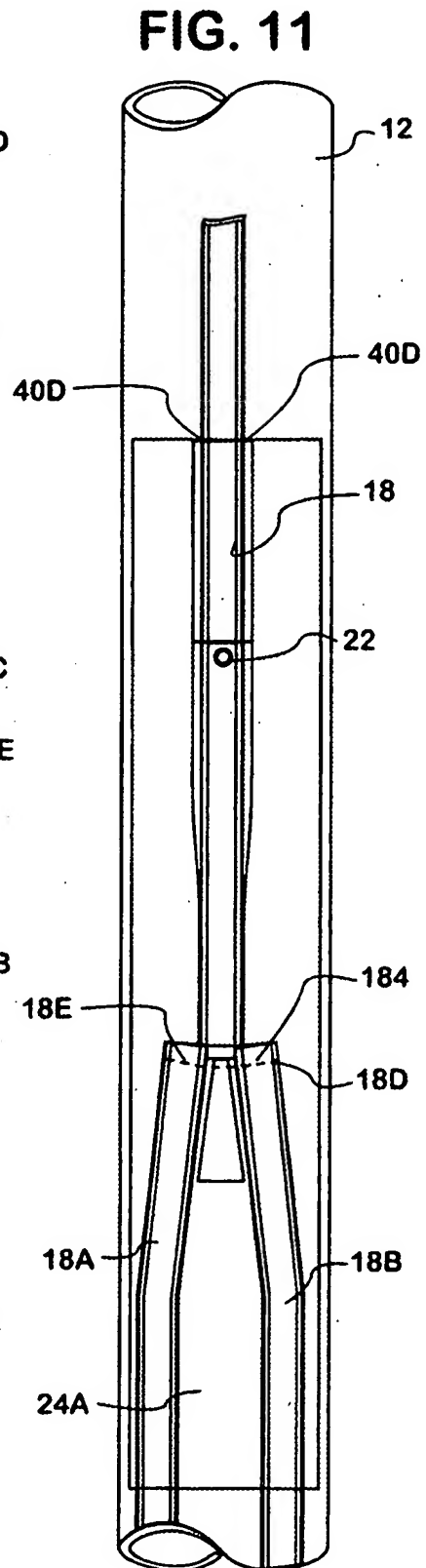
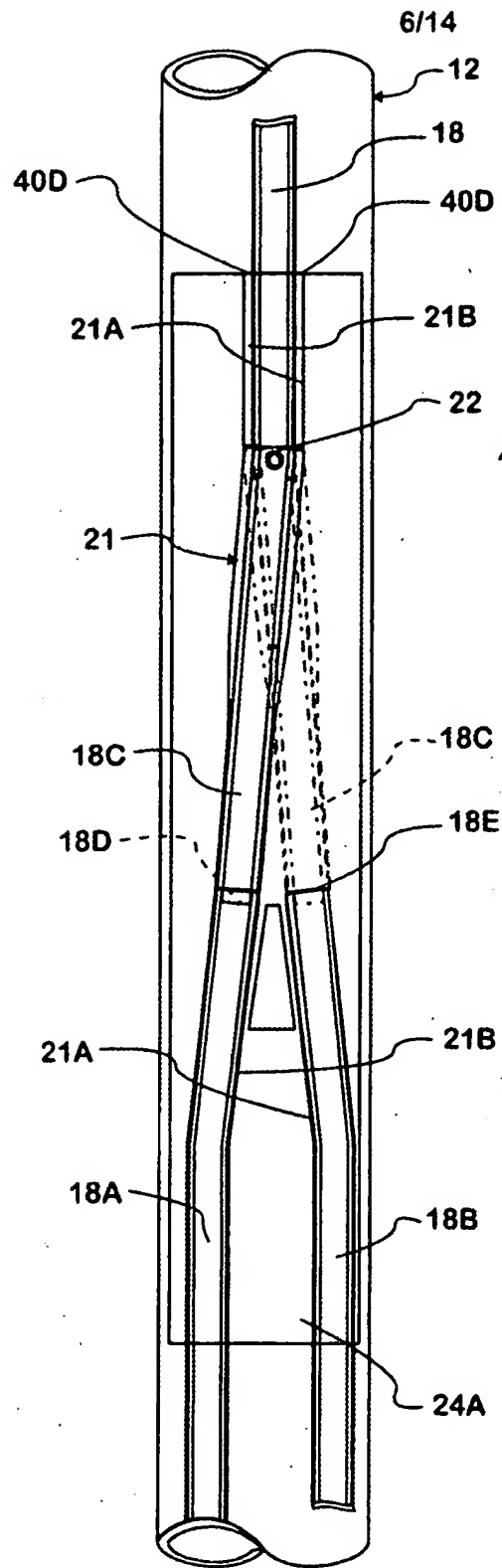
FIG. 7



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FIG. 9





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FIG. 12A

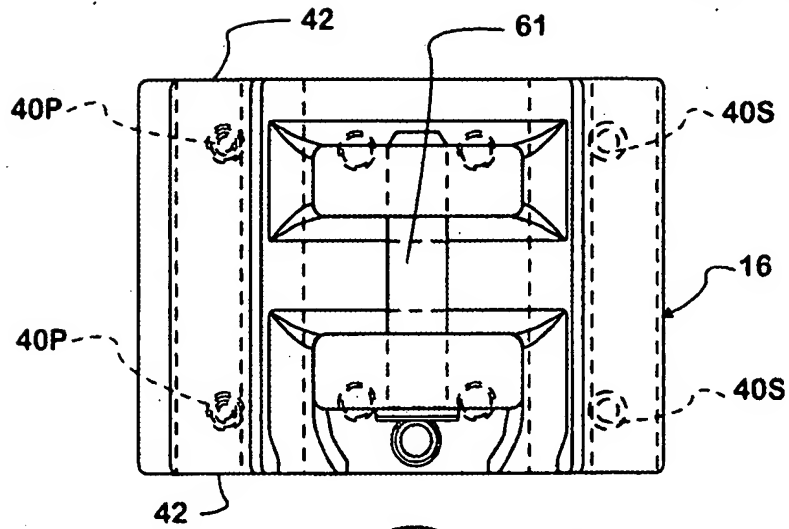


FIG. 12B

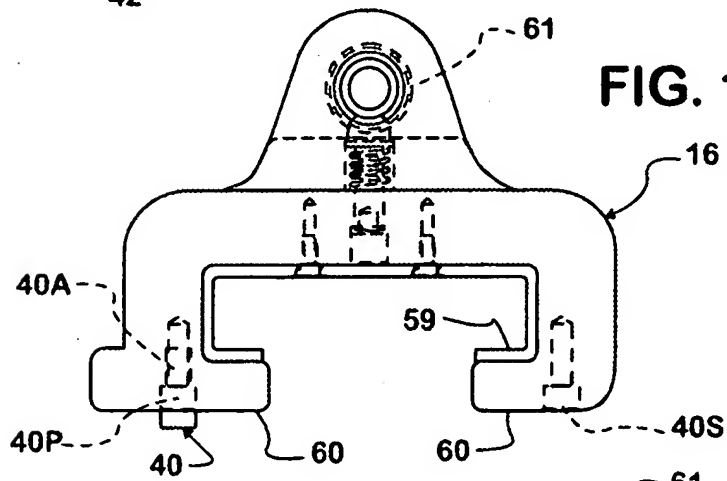
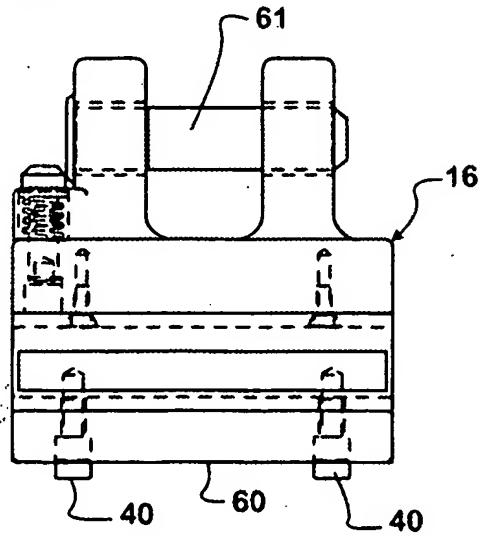


FIG. 12C



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FIG. 13A

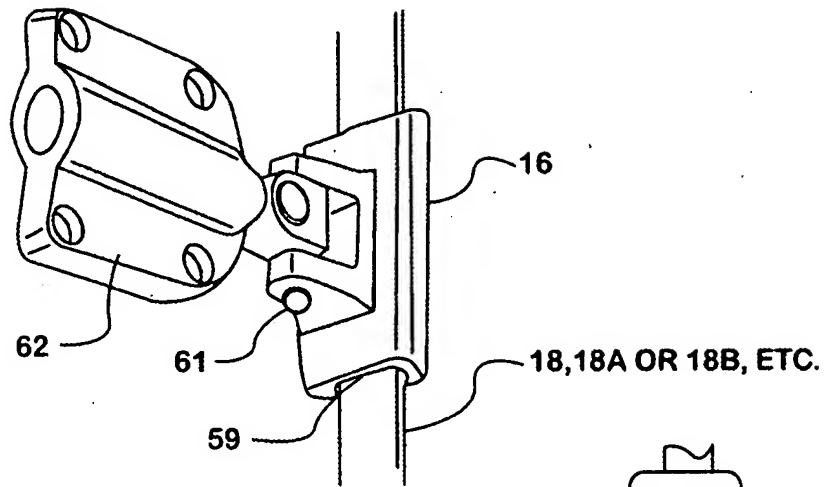


FIG. 13C

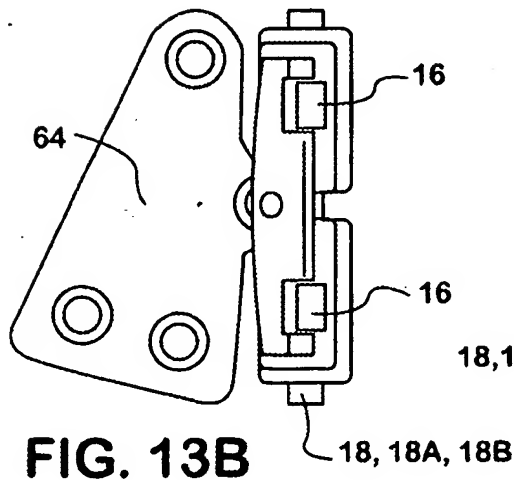
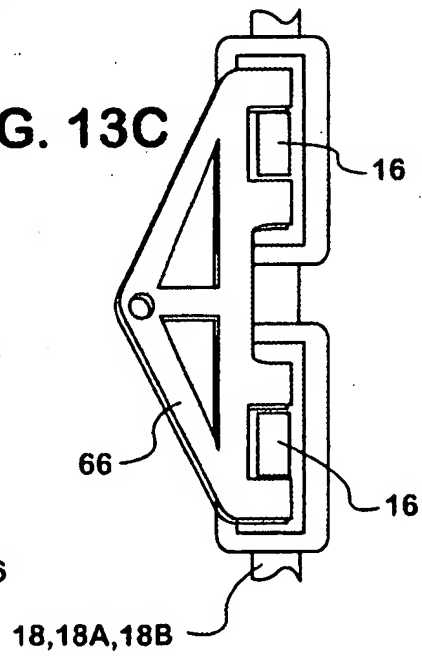


FIG. 13B

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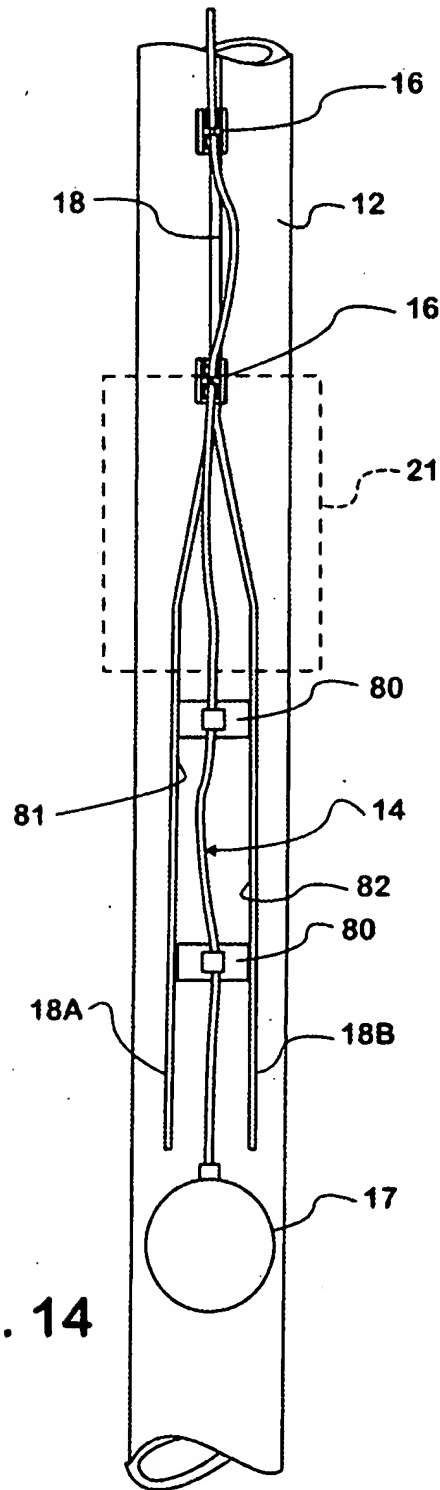


FIG. 14

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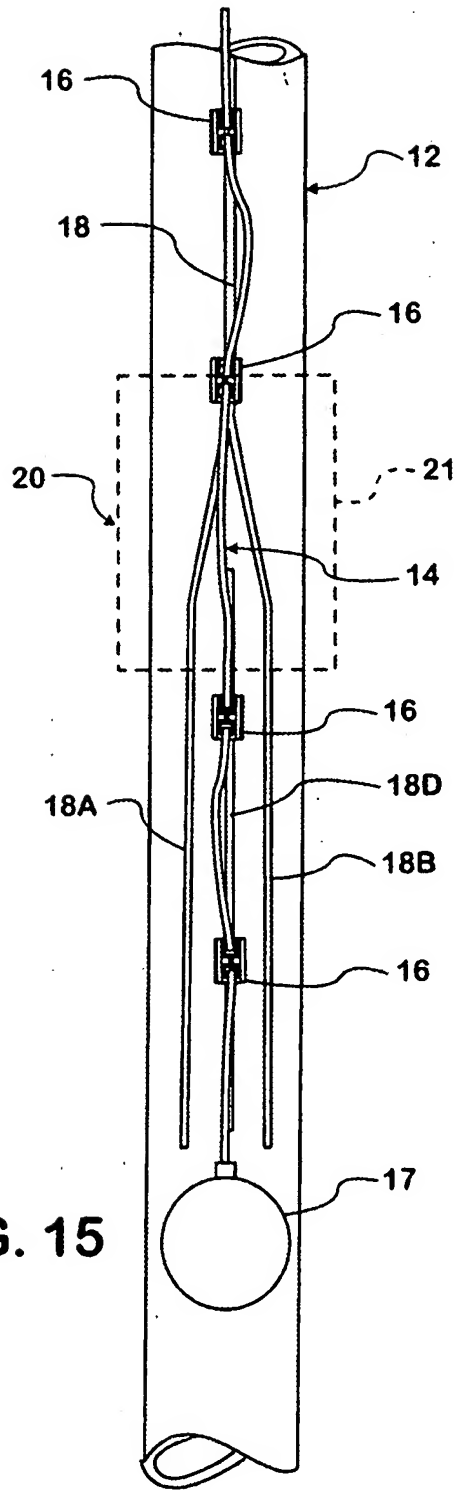
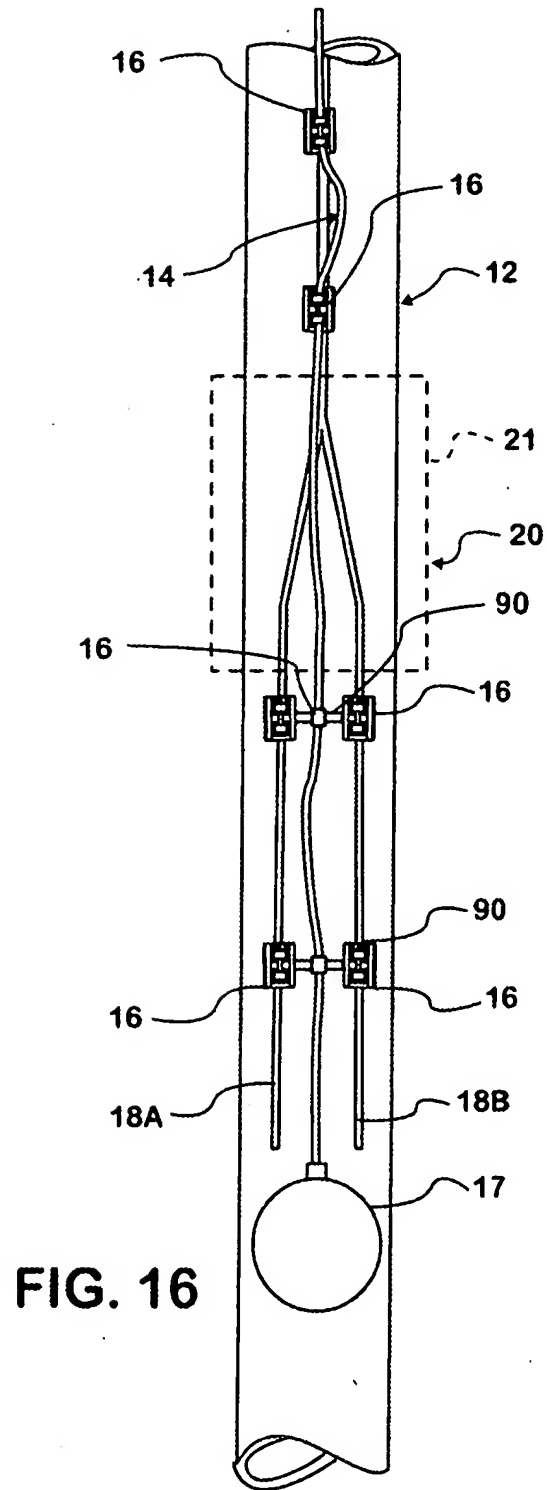
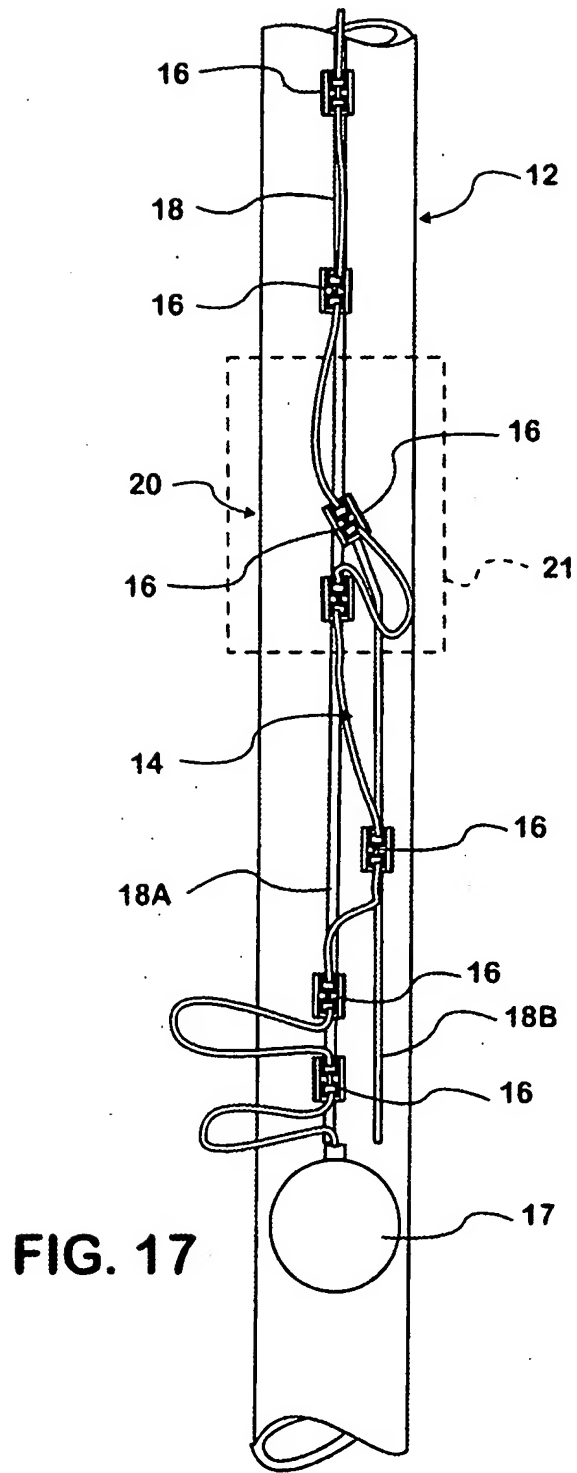


FIG. 15

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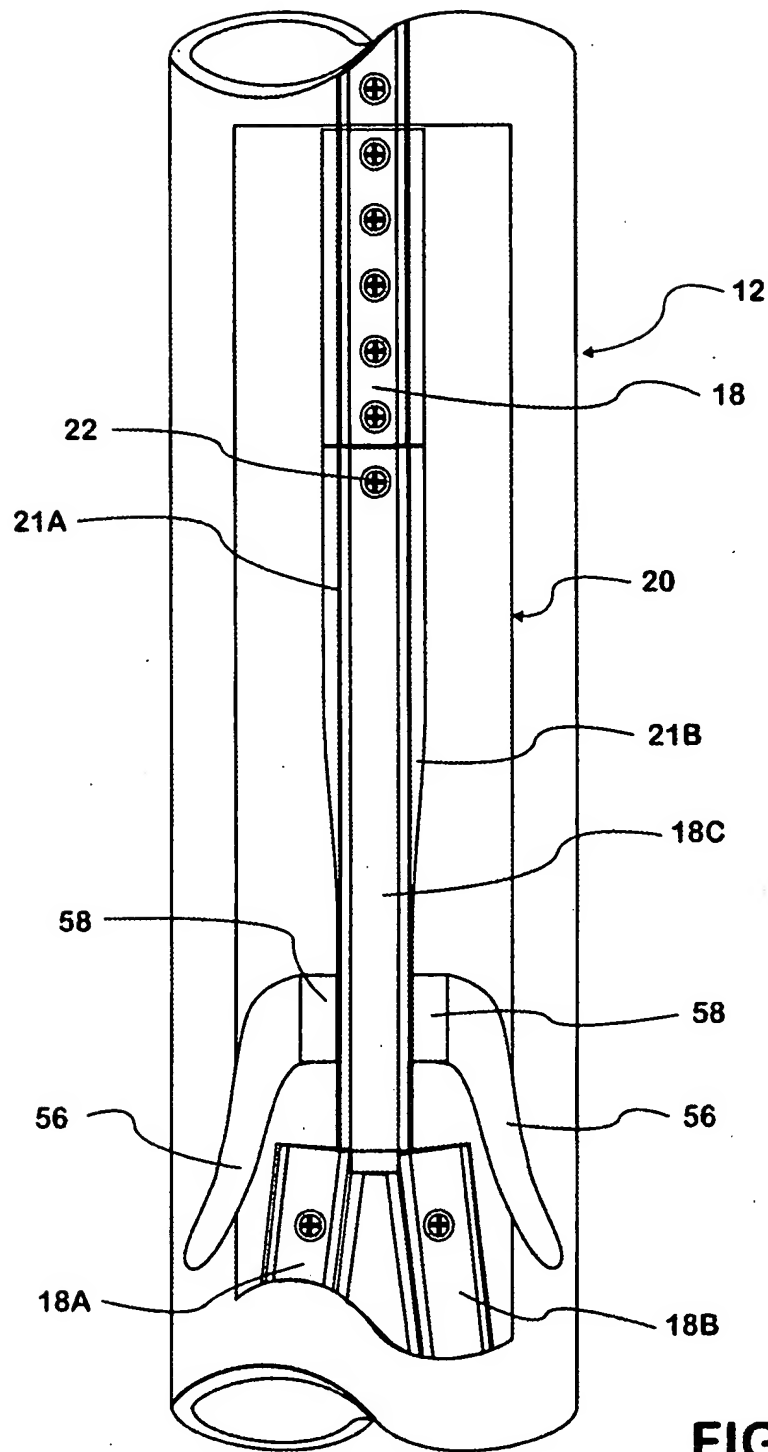


FIG. 18

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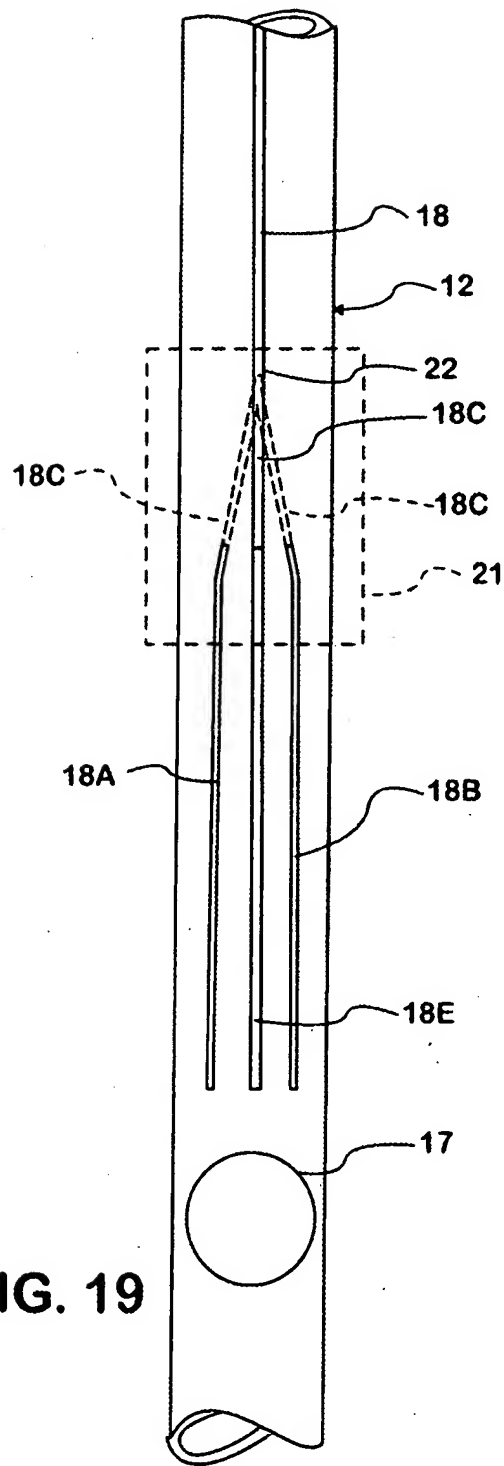


FIG. 19